

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

**THOMAS MAJCHROWSKI &  
ASSOCIATES, INC.**  
**dba TERESCRPTION,**  
a California corporation,

**Plaintiff,**

**v.**

**3PLAY MEDIA, INC.,**  
a Delaware corporation,

**Defendant.**

**Civil Action No.**

**COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff, Thomas Majchrowski & Associates, Inc. dba Terescription (“Terescription”), for its Complaint against 3Play Media, Inc. (“3Play”), alleges as follows.

### **PARTIES**

1. Plaintiff Terescription is a California corporation having a principal place of business at 10815 Meads, Orange, California 92869.

2. Upon information and belief, Defendant 3Play is a Delaware corporation having a principal place of business at 34 Farnsworth Street, 4<sup>th</sup> Floor, Boston, Massachusetts 02210.

3. Upon information and belief, Defendant 3Play uses, makes and/or has made, imports, and offers for sale and sells through the internet transcription software products and services throughout the United States, including in this judicial district of the District of Massachusetts.

### **JURISDICTION AND VENUE**

4. This action arises under the patent laws of the United States of America, 35 U.S.C. § 1, *et seq.*

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

6. This Court has personal jurisdiction over Defendant 3Play because: (a) Defendant 3Play has its principal place of business in Massachusetts; (b) Defendant 3Play has systematic and continuous contacts with this district; and (c) Defendant 3Play has committed acts of patent infringement in Massachusetts, including at least making, using, selling and offering for sale infringing software products, including, for example, 3Play’s Interactive Transcript Plugin, through the internet (“Accused Software Products”) in Massachusetts.

7. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1400(b) because (a) Defendant 3Play has committed acts of patent infringement in Massachusetts and (b) Defendant 3Play has a regular and established place of business in Massachusetts.

### **THE PATENTS**

8. On November 5, 2013, United States Patent Number 8,577,683 (“the ‘683 patent”), titled “Multipurpose Media Players,” was duly and legally issued by the United States Patent and Trademark Office (“USPTO”) naming Keri DeWitt as the sole inventor. A copy of the ‘683 patent (including a certificate of correction dated March 21, 2017) is attached as Exhibit A.

9. On August 13, 2008, Ms. DeWitt assigned the application that matured into the ‘683 patent to Teresis Media Management, Inc. (“Teresis”). The assignment record is attached as Exhibit B.

10. On February 23, 2011, Teresis assigned the application that matured into the ‘683 patent to Terescription. The assignment record is attached as Exhibit C.

11. Since February 23, 2011, Plaintiff Terescription has been, and continues to be, the sole owner of the ‘683 patent.

12. Defendant 3Play does not have any license, authorization, consent, or permission from Terescription to make, use, offer to sell or sell any product embodying the subject matter of any claim of the ‘683 patent.

### **COUNT I – PATENT INFRINGEMENT AND DAMAGES**

13. Plaintiff Terescription incorporates by reference the averments set forth in paragraphs 1 through 12.

14. 3Play has directly infringed, literally and/or under the doctrine of equivalents, at least claim 1 of the ‘683 Patent in this district and elsewhere by at least making, selling, using,

and/or offering for sale the Accused Software Products. 3Play's infringement is described further below with respect to claim 1. The analysis below is based on publicly available information.

15. The preamble of Claim 1 states, "A computer program product." The Accused Software Products are computer programs as evidenced by, at least, descriptions of the Accused Software Products on 3Play's own website at the following URL:

<http://www.3playmedia.com/services-features/plugins/interactive-transcript/>.

(Printout at Exhibit D.)

#### **Easy Installation**

An interactive transcript can be added to any website by inserting an embed code – it's the same process as embedding a video player. You can get the embed code from your 3Play Media account after your files have been transcribed.

The embed code is dynamically generated based on your video player, features enabled, size, and styling. The transcript data and search are hosted by 3Play Media.

16. Claim 1 further requires that the claimed computer program "directs a data processor to play a digital medium and to display a transcript comprising a series of words associated with the digital medium, the computer program product comprising the following set of instructions embodied in a non-transitory computer-readable medium directing the data processor to." The Accused Software Products meet this limitation as evidenced by, at least, descriptions of the Accused Software Products on 3Play's own website at the following URL:

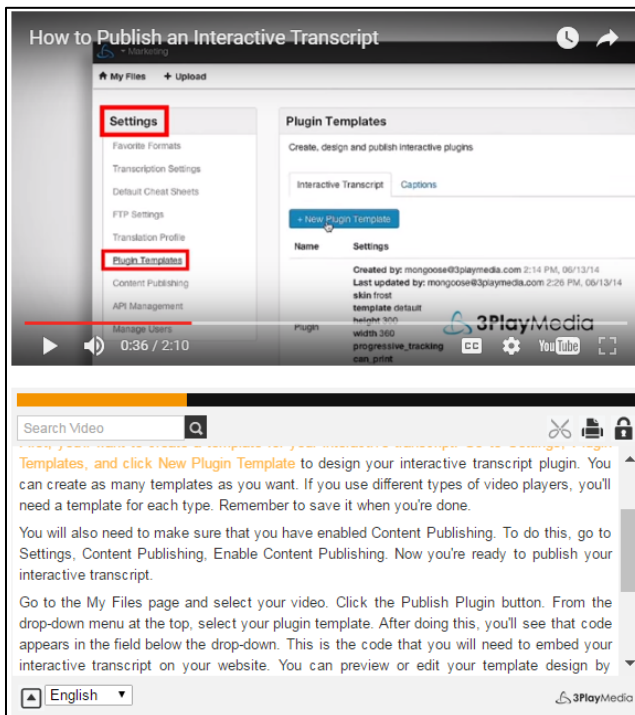
<http://www.3playmedia.com/services-features/plugins/interactive-transcript/>.

(Printout at Exhibit D.)

## INTERACTIVE TRANSCRIPT

### Makes Your Video Searchable, SEO-Friendly, and More Engaging

Adding an interactive transcript to your website allows your users to interact with your video in an entirely new way. Users can search the video and navigate by clicking on any word to jump to that exact point. It's also a great way to make your video accessible and broaden your audience reach with the use of translations. You'll see a significant SEO benefit because search engines will be able to index all of the spoken content instead of just the video title and tags.



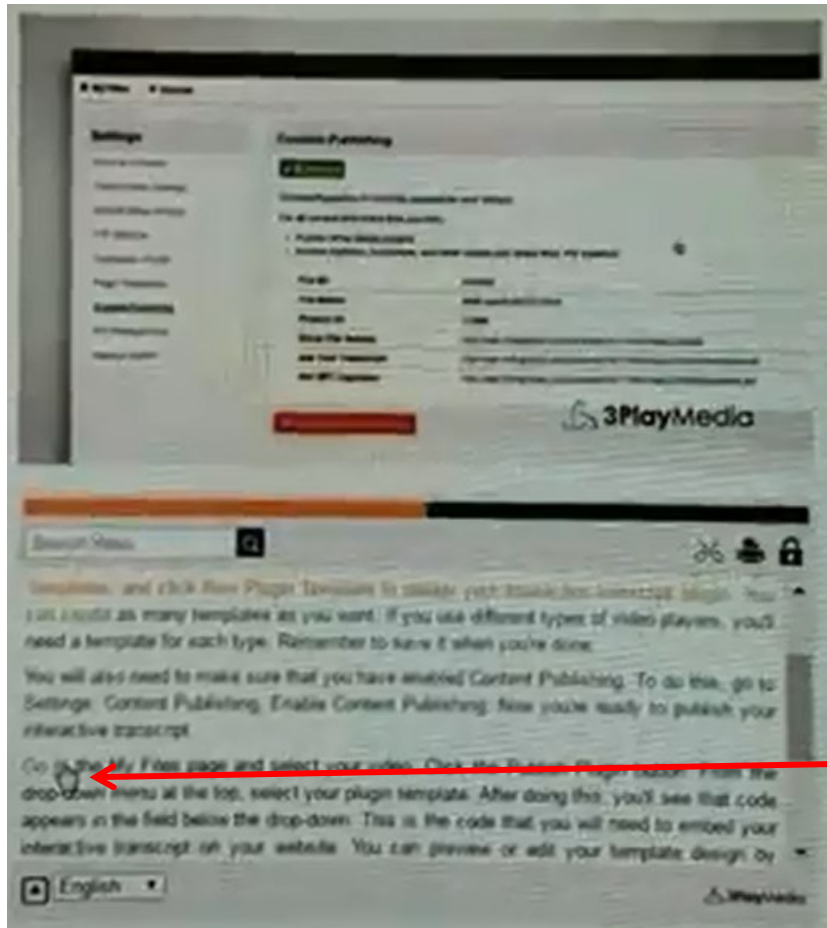
**Digital Medium**

**Transcript**

17. Claim 1 further requires that the claimed computer program “display at least a portion of the transcript associated with the digital medium, one or more words in the series of words being hyperlinked to provide a text hyperlink, the transcript embedded with a time stamp representative of a time code of the digital medium associated with the one or more words.” The Accused Software Products meet this limitation as evidenced by, at least, descriptions of the Accused Software Products on 3Play’s own website at the following URLs:

<http://www.3playmedia.com/services-features/plugins/interactive-transcript/>

(Printout at Exhibit D.)



**Digital Medium**

**Transcript**

**Cursor over  
Hyperlink in  
Transcript**

[http://www.3playmedia.com/resources/webinars/sdk-03-17-2016/transcript/.](http://www.3playmedia.com/resources/webinars/sdk-03-17-2016/transcript/)

(Printout at Exhibit E.)

So we're reviewing the basic functionality here. I have a YouTube player with a really basic interactive transcript. So I'll click Play. I'll keep the sound off. But I just want us to show you that the word tracks along as the speaker is going. In this case, I've used CSS to make the active word red. I can still click a word to jump to that part of the video. And this is sort of the foundation of the interactive transcript.

You notice each word has a time stamp behind it. We do transcribe at a very granular level in terms of the timing. So this will be reserved for anything that you process through us here at 3Play.

18. Claim 1 further requires that the claimed computer program “receive an activation of the text hyperlink.” The Accused Software Products meet this limitation as evidenced by, at

least, descriptions of the Accused Software Products on 3Play's own website at the following URLs:

<http://www.3playmedia.com/services-features/plugins/interactive-transcript/>.

(Printout at Exhibit D.)

<http://www.3playmedia.com/resources/webinars/sdk-03-17-2016/transcript/>.

(Printout at Exhibit E.)

19. Claim 1 further requires that the claimed computer program “upon receipt of the text hyperlink activation, play the digital medium starting at the time code associated with the embedded time stamp.” The Accused Software Products meet this limitation as evidenced by, at least, descriptions of the Accused Software Products on 3Play's own website at the following URLs:

<http://www.3playmedia.com/services-features/plugins/interactive-transcript/>.

(Printout at Exhibit D.)

<http://www.3playmedia.com/resources/webinars/sdk-03-17-2016/transcript/>.

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So we're reviewing the basic functionality here. I have a YouTube player with a really basic interactive transcript. So I'll click Play. I'll keep the sound off. But I just want us to show you that the word tracks along as the speaker is going. In this case, I've used CSS to make the active word red. I can still click a word to jump to that part of the video. And this is sort of the foundation of the interactive transcript.

You notice each word has a time stamp behind it. We do transcribe at a very granular level in terms of the timing. So this will be reserved for anything that you process through us here at 3Play.

20. 3Play sells transcription services on a per minute and per hour basis to produce interactive transcripts of customers' media files, *e.g.* videos.

21. 3Play's customers need the Accused Software Products to use 3Play's interactive transcripts.

22. The Accused Software Products create the value of 3Play's transcription services for producing interactive transcripts.

23. Plaintiff Terescription has sustained damages as a direct and proximate result of the infringement by Defendant 3Play of the '683 Patent, such damages including 3Play's sale of transcription services to produce interactive transcripts used with the Accused Software Products.

24. As a consequence of the infringement by Defendant 3Play of the '683 Patent, the Plaintiff Terescription is entitled to recover damages in the form of, at a minimum, a reasonable royalty.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Terescription prays for judgment as follows:

- A. Finding that Defendant 3Play has infringed the '683 Patent;
- B. Awarding all damages adequate to compensate Plaintiff Terescription for the harm suffered as a result of the infringement by Defendant 3Play of the '683 Patent, together with pre- and post-judgment interest and costs as fixed by the Court, pursuant to 35 U.S.C. §284;
- C. In the event that evidence is adduced through discovery or at trial that the infringement by Defendant 3Play was willful and deliberate, awarding to Plaintiff Terescription enhanced damages pursuant to 35 U.S.C. § 284;
- D. In the event that circumstances warrant a declaration that this case be declared to be exceptional, awarding to Plaintiff Terescription reasonable attorneys' fees pursuant to 35 U.S.C. § 285; and
- E. Preliminarily and permanently enjoining Defendant 3Play, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the injunction, from further infringement of the '683 patent; and

F. Granting Plaintiff Terescription such other and further relief as the Court may deem just and proper.

**JURY DEMAND**

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands that the issues in this case be tried by a jury.

Dated: June 7, 2017

Respectfully submitted,

By: /s/ David C. Berry

David C. Berry (BBO# 551509)

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